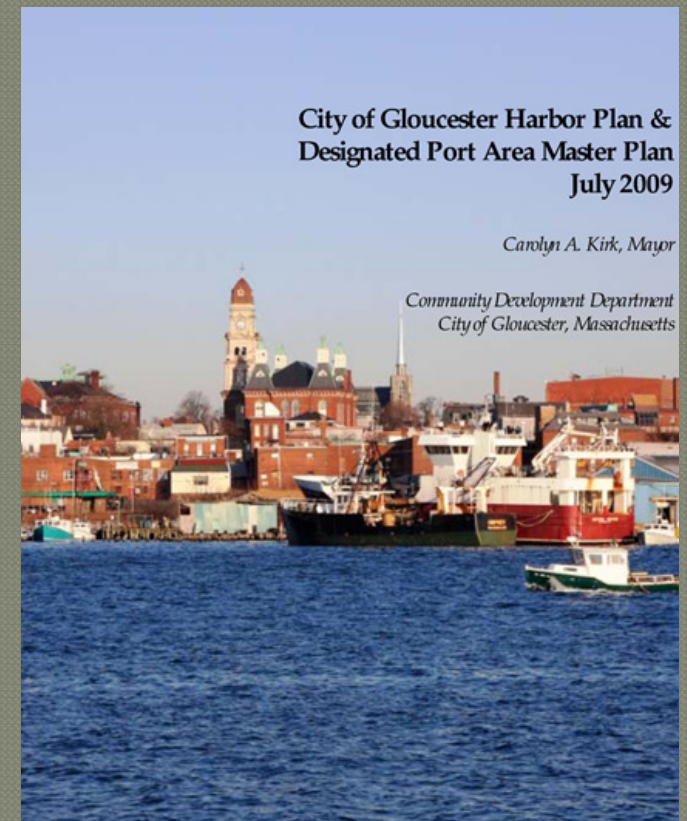


State Role in Designated Port Areas and Municipal Harbor Planning



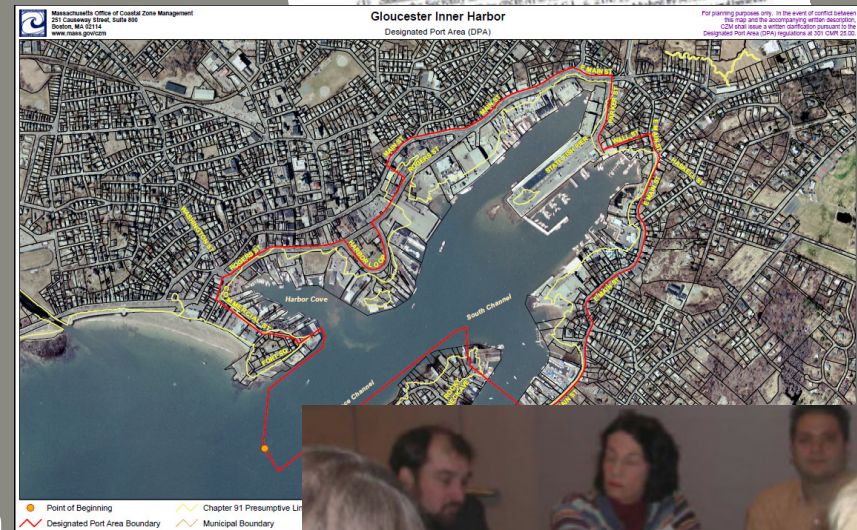
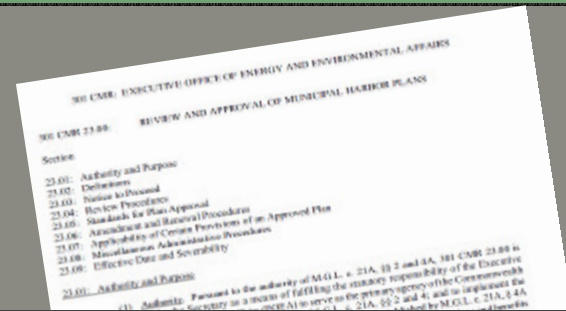
Coastal Zone Management (CZM)

- Part of EEA
- Balance use and resource protection
- Foster partnerships
- Promote sound coastal management



CZM's Role in Harbor Planning

- General technical assistance
- MHP regulatory guidance
- Review MHP submittals (on behalf of EEA Secretary)
- Assistance through RC



Department Of Environmental Protection (DEP)

- Ch. 91 Implementation
- Protection and promotion of public use of tidelands
- MHP regulatory guidance
- Ch. 91 permit authority

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 9.00: WATERWAYS

Section

9.01: Authority and Purpose
9.02: Definitions
9.03: Scope of Jurisdiction
9.04: Geographic Areas Subject to Jurisdiction
9.05: Activities Subject to Jurisdiction
9.06: Requests for Determination of Applicability
9.07: Activities Subject to Annual Permit
9.08: Enforcement
9.09: Effective Date and Severability
9.10: Simplified Procedures for Small Structures Accessory to Residences
9.11: Application Requirements



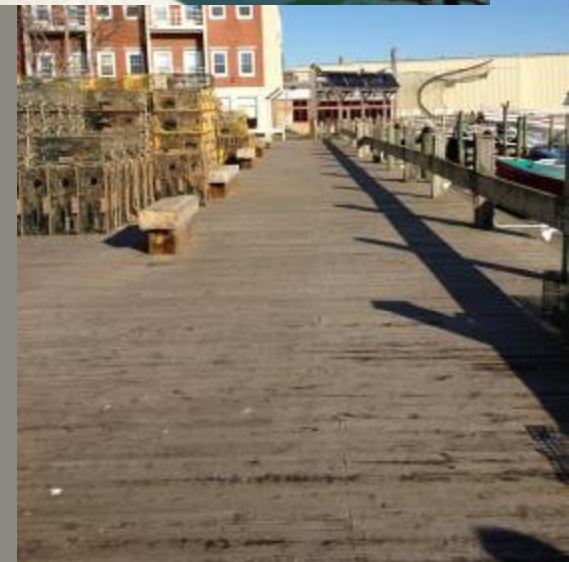
Public Trust Doctrine

- 2,000 year old principle
- Public has fundamental rights to air, sea, shore
- State as trustee of the public's rights has responsibility to protect these interests



Chapter 91

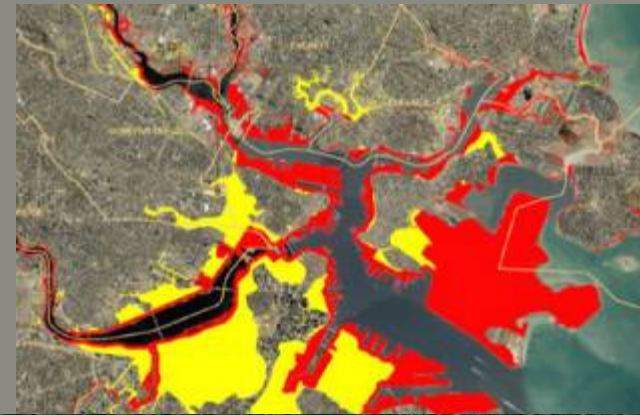
- Primary tool to implement protection of public use of tidelands
- Coastal and inland waterways
- Any activity that takes place within jurisdiction requires authorization



Chapter 91

• Where is Chapter 91 Jurisdiction?

- Flowed Tidelands
 - Any project in, on, over, or under tidal waters seaward of mean high water (MHW)
 - Extends 3 miles seaward (state jurisdiction)
- Filled Tidelands (lands that were formerly flowed tidelands)
 - In a DPA, all filled tidelands (to Historic High Water (HHW))
 - Outside a DPA, to first public way or 250 from MHW (whichever more landward)



Designated Port Area (DPA)

- There are 11 DPAs in Massachusetts
- Gloucester, Beverly, Lynn, Salem
- Mystic River, Chelsea Creek, East Boston, South Boston, Weymouth Fore River
- New Bedford-Fairhaven, Fall River
- Based on physical and operational features needed to support water dependent industry



3 Key DPA Attributes

- Waterway and associated **waterfront developed** to accommodate commercial navigation or other utilization of the water;
- **Landside space** with physical and use character that **supports siting of industrial** facilities/operations
- Appropriate land-based **transportation routes and utilities** for industrial use



State DPA Policy

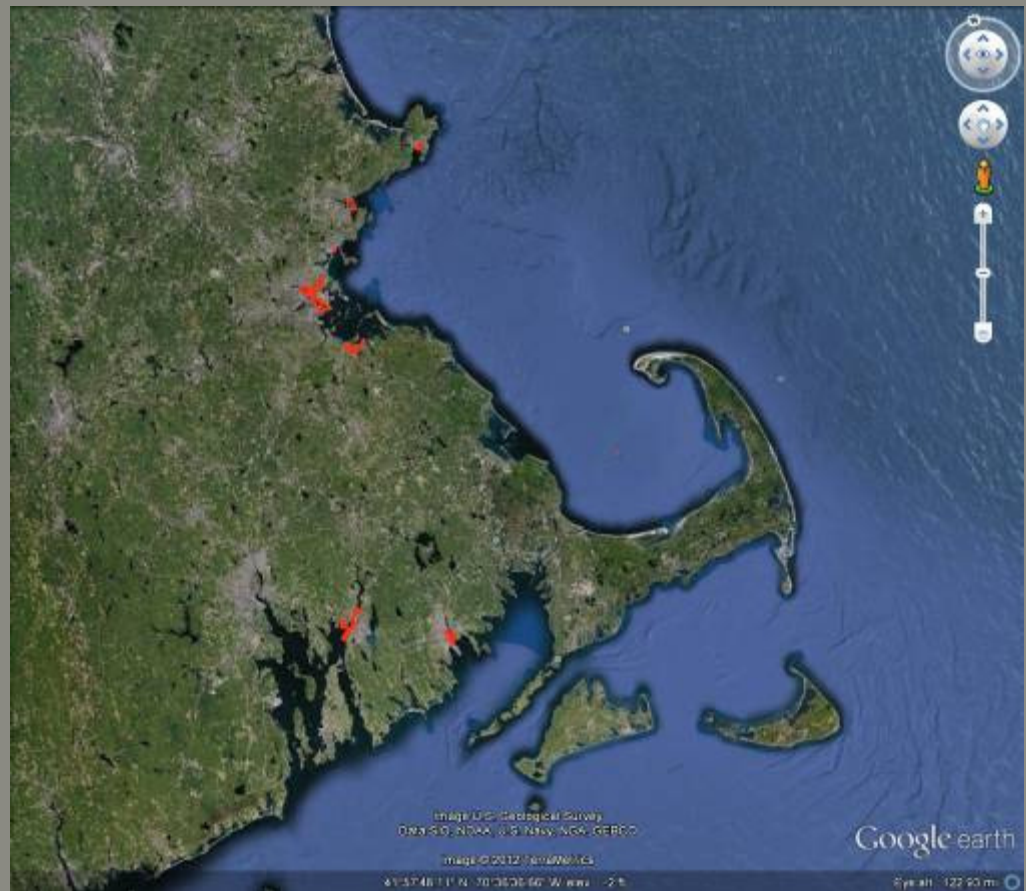
● **DPA Policy: protect limited developed shoreline resources for industrial uses that cannot be sited elsewhere**

● **Basis:**

- Industrial uses need appropriate physical attributes
- Coastal areas with these essential developed attributes are limited
- Unlikely that new developed shoreline can be created
- Once converted from industrial character, not likely to revert back
- Non-industrial uses can be sited in other locations

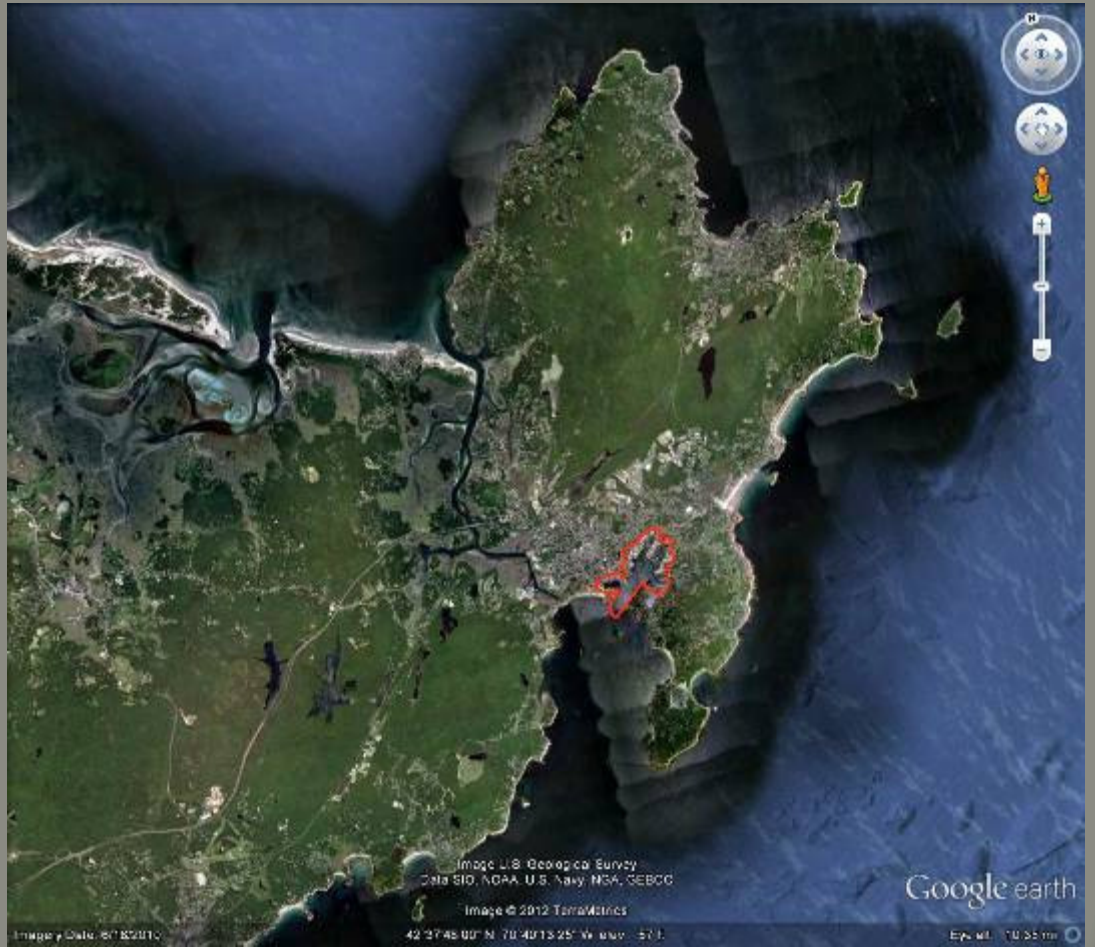
Massachusetts DPAs

- Approximately 1.7% of Massachusetts coastline is DPA
- Remainder of coast does not have the essential physical attributes to support WDI uses



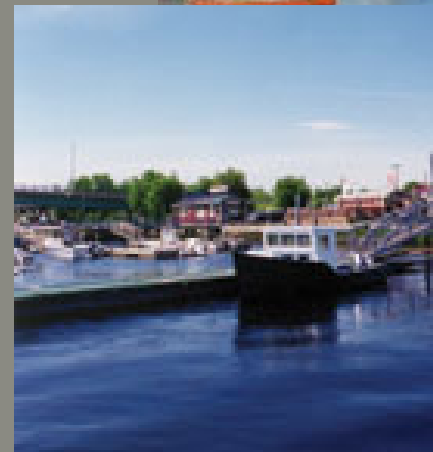
Gloucester Harbor DPA

- Approximately 3.7% of Gloucester coastline is DPA
- Remainder of coast does not have the essential physical attributes to support WDI uses



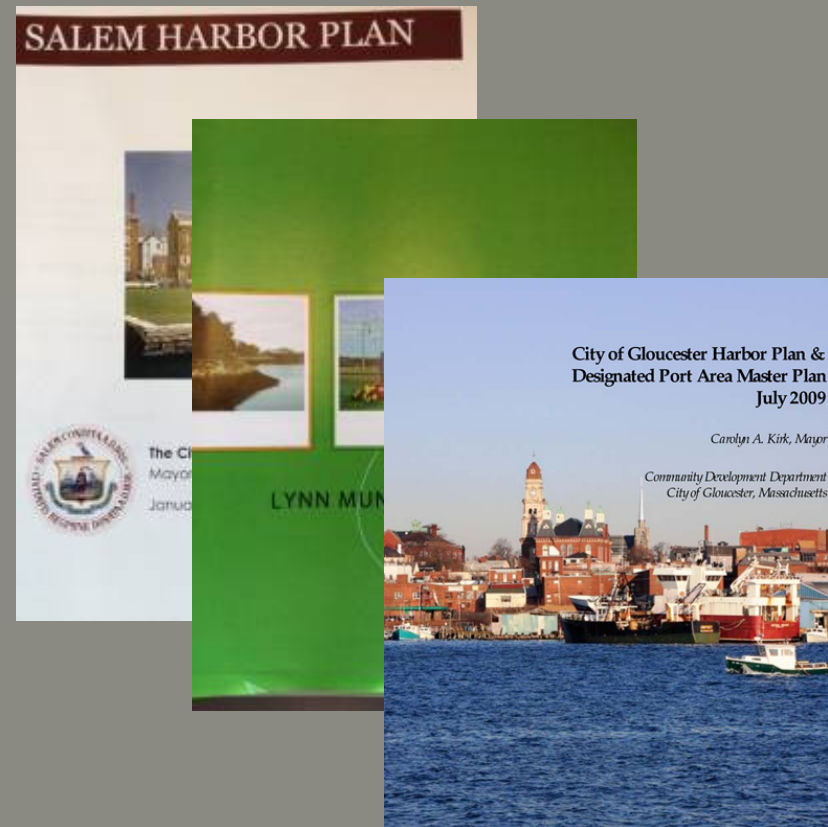
Harbor Planning

- State does not require harbor plans
- Harbor Plans guide the growth and development of harbors
- Community can do harbor planning with no state involvement
 - Community develops vision for harbor
 - Identifies key issues
 - Develops goals and objectives for harbor and action items to address these
 - Action items are implemented locally
 - Actions/projects on the waterfront **must comply with local zoning and existing state regulations**



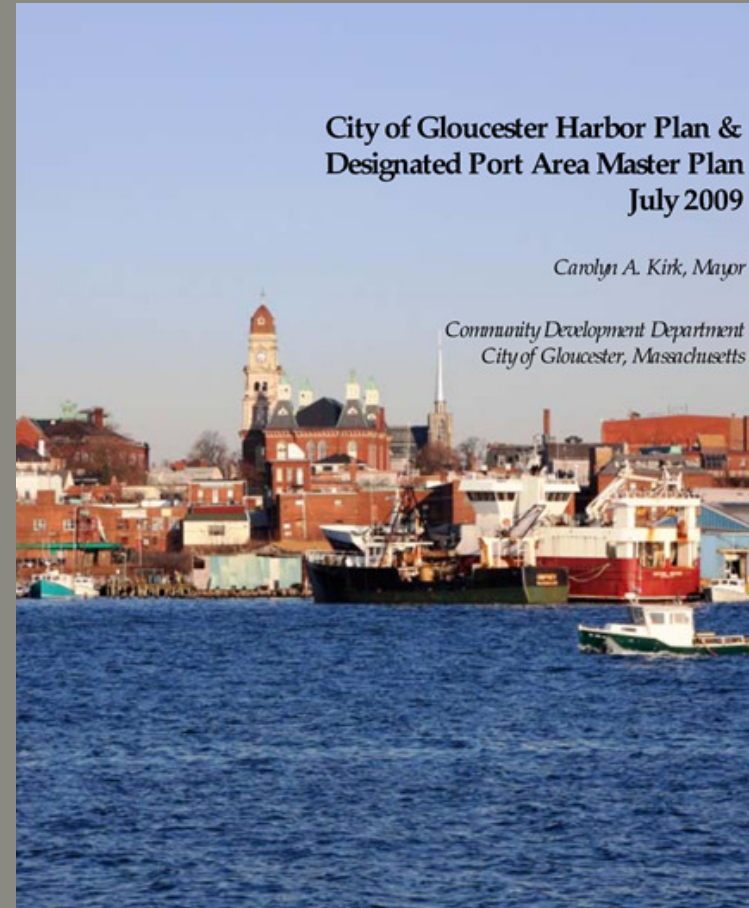
Municipal Harbor Plan (MHP)

- Voluntary
- Community **can modify some Ch. 91 rules** to fit goals for the harbor
- Changes must be consistent with state tidelands policy
- MHP reviewed and approved by Secretary of EEA
- **Approved MHP guides DEP Chapter 91 licensing decisions**



DPA Master Plan

- Part of the MHP
- Community specifies allowable Supporting DPA uses
- Can request flexibility
- Must preserve/enhance capacity of the DPA to accommodate WDI uses



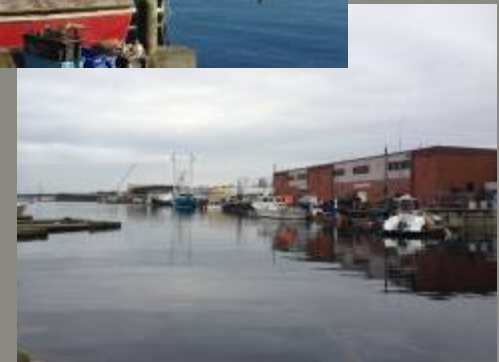
Uses Allowed in DPA

- Water Dependent Industrial(WDI)
- Accessory to WDI
- Supporting DPA Uses
- Temporary Uses



Water Dependent Industrial (WDI)

- Industrial in nature and water dependent
- Examples:
 - **Marine terminals/facilities** for waterborne commerce
 - **Passenger vessel** facilities
 - **Manufacturing facilities** relying on goods arriving via water
 - **Commercial fishing/processing** facilities
 - Facilities for **construction/maintenance of vessels** or other marine structures (boatyard, storage, dry docks, etc)
 - **Hydroelectric power** facilities
 - Industrial facilities dependent on **withdrawal or discharge of large volumes of water**



Accessory Uses

- Uses associated with WDI uses
- Cannot exist on their own
- Examples:
 - Roadways
 - Parking
 - Administration offices



Supporting DPA Uses

- Commercial or industrial uses
- Provide **direct economic or operational support** to WDI use
- Differ from accessory use—can exist without WDI use
- Certain uses prohibited by regulation (hotel/motel, rec boating, office buildings, etc.)



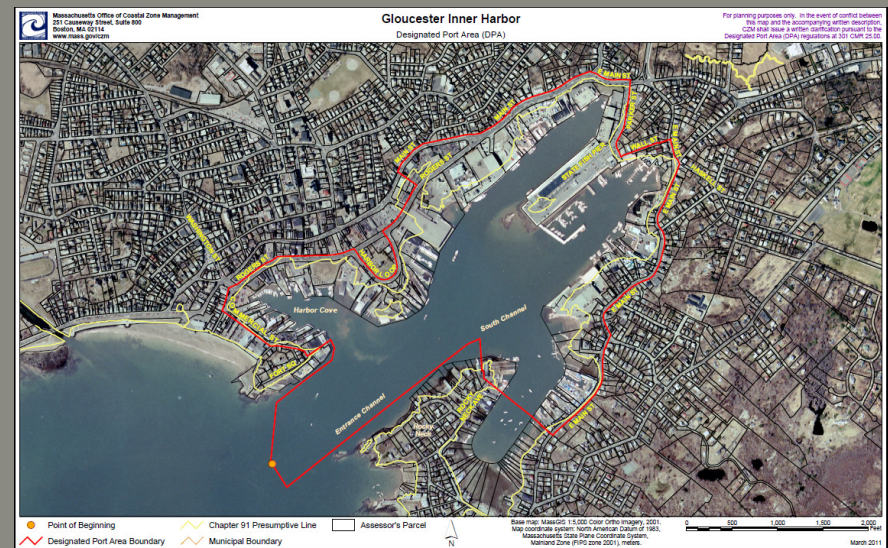
Temporary Uses

- Allowed for maximum of 10 years
- Intended to fill vacant spaces/facilities
- Examples:
 - Parking
 - Warehousing
 - Trucking



DPA Boundary Review

- CZM responsible for DPA boundary review
- Can be requested by:
 - City or town
 - Port authority/Regional planning agency
 - DPA Property owner
 - Ten citizens
- 3 Key DPA Attributes



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